IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 11-09-2007

CORAM

THE HONOURABLE MR.JUSTICE S.PALANIVELU

CRIMINAL ORIGINAL PETITION No.26060 OF 2007

A.Murugan ... Petitioner

-vs-

1.State, by
The Inspector of Police,
K6 TP Chathiram Police Station,
Madras.

2.K.Sondararajan ... Respondents
(impleaded as per order dated 11-09-2007
in Crl.M.P.No.1 of 2007)

Petition under Section 482 of the Code of Criminal Procedure.

For petitioner : Mr. C.P.R.Kamar Raj
For respondent 1 : Mr.A.Saravanan,
Government Advocate (Criminal Side).
For respondent 2 : Mr.Dalit Tiger C.Ponnusamy

O R D E R

Petitioner has filed this petition for a direction to the learned Principal Sessions Judge, Chennai, to consider the his application in connection with Crime No.483 of 2007, pending on the file of the respondent, on the same day, on merits.

2. Petitioner is arrayed as the accused on the file of respondent for the offence under Section 3 (i) (x) of SC/ST Act read with 506 of IPC.

3. The de facto complainant filed an application before this Court, to implead him as a party/intervener.

4. Learned counsel for the intervener would vehemently oppose the main petition, contending that since the statute, namely, SC/ST Act specifically bars grant of anticipatory bail by the Court, the petitioner has preferred the petition to get bail, which is an abuse of process of law. His further contention is that this is not a case, which comes under Section 482 Cr.P.C., and that the petitioner is trained to misguide the Court.

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5. In my view, the contention of the learned counsel for the intervener is not at all tenable, for the reason that the petitioner would in no way be allowed by this Court to circumvent the procedure, to avail the remedy under anticipatory bail application. This Court passes orders, directing the Special Judge, prescribed under the Act, to consider the bail application and pass orders on merit. This course of power, which is being exercised under Section 482 Cr.P.C., would not in any way be fettered, since it is a mere direction to the Special Judge to deal with the bail petition in accordance with its own merits. If the Special Judge is not satisfied with the merits and circumstances of the matter, he is at liberty to dismiss the petition. In case the applicant is found to get the remedy available under the law, the said remedy may be made available to him and, by no stretch of imagination, it could be termed as misuse of process of law. The intervener, namely, de facto complainant is being represented by the Special Public Prosecutor before the Special Judge and the case is being effectively prosecuted by him. If necessary, it is always open to the intervener to file an application before the trial Court, to assist the prosecution. However, the intervener has no locus standi to have his say in the matter, since he will, in no way, be prejudiced with the order passed by this Court.

6. Under the circumstances, the claim and contention of the intervener could not be countenanced. In view of the bar under Section 18 of the S.C. & S.T. (Prevention of Atrocities) Act, 1989, the petitioner could not move for anticipatory bail. Therefore, I direct the learned Principal Sessions Judge, Chennai, to consider the bail application filed by the petitioner on his surrender and pass orders on the same day, on merits.

7. Criminal Original Petition is ordered accordingly.

dixit

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To
1.The Inspector of Police,
K6 TP Chathiram Police Station,
Madras.

2.The Public Prosecutor,
High Court, Madras.

KK(CO)
dcp/3.10

CRL.O.P.No.26060 OF 2007

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